



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

August 29, 1990

Mr. A.W. Pogue  
Commissioner  
State Board of Insurance  
1110 San Jacinto  
Austin, Texas 78701-1998

OR90-405

Dear Mr. Pogue:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 10392.

The State Board of Insurance received an open records request for, inter alia, records of the board's investigation of the National Federation of Retired Persons. We have considered the exception you claimed, specifically section 3(a)(3), and have reviewed the documents at issue. A previous determination of this office, Open Records Decision No. 551 (1990), resolves your request. Because the investigatory records relate to a reasonably anticipated administrative hearing before the Commissioner of Insurance, you may withhold the requested information at this time.

We assume, however, that none of the information in the records at issue has previously been made available to the subject of the board's investigation. Absent special circumstances, once information has been obtained by all parties to the litigation, e.g. through discovery or by court order, no section 3(a)(3) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a

published open records decision. If you have questions about this ruling, please refer to OR90-405.

Yours very truly,



Jim Moellinger  
Assistant Attorney General  
Opinion Committee

JM/RWP/le

Ref.: ID# 10392

cc: Patricia Barnhard  
State Board of Insurance

John N. Tyler  
Tyler & Perry  
8103 Broadway  
San Antonio, Texas 78209